<center>**REMARKS**</center>

The Examiner is thanked for the performance of a thorough search. By this amendment, Claims 1, 5, 8, 15, 16, 20, 25, 27, 29, 33, 36, 43, and 44 have been amended. Claims 48–58 have been added. Claims 9, 11–14, 26, 37, and 39–42 have been canceled. Hence, Claims 1–8, 10, 15–25, 27–36, 38, and 43–58 are pending in this application.

All issues raised in the Office Action are addressed hereinafter.

I.   OFFICE ACTION'S "RESPONSE TO ARGUMENTS"

Claims 1–47 stand rejected under 35 U.S.C. § 102. To anticipate under 35 U.S.C. § 102, a reference must show all elements, steps or limitations of a claim, arranged as in the claim. An anticipation rejection is unsupported or overcome if a reference is missing even one element, step, or limitation. *See Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983). The Office Action fails to meet this burden and is entirely unresponsive to Applicants' arguments. Rather, the Office Action states that "in reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection." Applicants agree, but this statement is not a response to Applicants' arguments. The Office Action does not say what these "reasonable inferences" are, how one skilled in the art would have made such "reasonable inferences," or which of the many claimed features are shown by these "reasonable inferences." Until the Office **specifically shows** all elements, steps, or limitations of Applicants claims, rejection under 35 U.S.C. § 102 is **improper**.

Applicants previously noted that the Office has failed to give "adequate notice or reasonable particularity with respect to the bases of the rejections," as required by 37 C.F.R. §1.104(c)(2) and MPEP 707. The Office Action of December 12, 2007 still fails to reasonably identify what aspects of the prior art specifically teach each element of Applicants' claims. Applicants respectfully request that the Office provide a reasonable explanation of its allegations.

II.   CLAIM REJECTIONS BASED ON 35 U.S.C. § 102

A.   *Anticipation under 35 U.S.C. § 102(e): Kirti et al.*

Claims 1–47 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,076,543 to Kirti et al. (hereinafter "*Kirti*"). Applicants traverse the rejection.

INDEPENDENT CLAIM 1

Claim 1, as set forth in the listing of claims, clarifies that the method features:

accessing first data that defines one or more states and state transitions for a particular component or interaction between a particular two or more components,

wherein the first data defines **at least one composite state transition**, each of said composite state transition **comprising multiple state transitions**; and

in response to the particular component or interaction between the particular two or more components entering a particular state or state transition, generating a notification corresponding to the particular state or state transition, wherein the particular state or state transition is one of the one or more states and state transitions.

For example, a computer implementing the steps of Claim 1 may read data, such as a state table, that defines states for a network component, such as an active state, an inactive state, and a busy state, and state transitions for the network component, such as a transition from an active state to an inactive state and a transition from an active state to a busy state. Among these state transitions, the data may define a **composite state transition** that includes multiple state transitions. For example, the data may define a composite state transition that includes **both** a transition from an inactive state to an active state **and** a transition from an active state to a busy state. In response to the network component entering this composite state transition, the

computer implementing the steps of Claim 1 may generate a notification, such as an event, corresponding to the composite state transition.

By contrast, *Kirti* teaches monitoring data that has been acquired from a network device by periodically polling the network device. *Kirti* at col. 8, lines 22–24. *Kirti* then teaches to examine this data to determine whether it meets threshold criteria. *Kirti* at col. 8, lines 36–43. If it does so, *Kirti* teaches to generate a notification. *Kirti* at col. 8, lines 42–48.

Kirti fails to teach or suggest a number of features of Claim 1.

(1) Kirti *does not disclose "states"*

Kirti does not teach or suggest "first data defines one or more states," as recited in Claim 1. The Office Action alleges that *Kirti* discloses "states" in *Kirti*, col. 8. *Kirti* makes no such disclosure. *Kirti* at col. 8 discusses generating notifications in response to acquiring data whose values meet certain threshold criteria. Applicants can find no element of col. 8 that suggests "first data that defines one or more states" as recited in Claim 1, and the Office Action does not allege which feature of col. 8 corresponds to "states."

Applicants suspect that the Office Action intends to allege that *Kirti*'s "threshold criteria" corresponds to states, but this is incorrect. While states may be based on thresholds, the difference between "threshold criteria" and "states" is readily apparent. For example, Claim 1 requires that a network device "enter" a state. But a network device cannot enter "threshold criteria." Thus, *Kirti*'s "threshold criteria" cannot be considered a state.

If the Office wishes to persist in alleging that *Kirti* teaches or suggests "first data that defines one or more states," Applicants respectfully request that the Office identify which element of col. 8 the Office believes corresponds to said "first data" and said "states."

(2) Kirti *does not disclose "state transitions"*

Kirti does not disclose "first data that defines one or more . . . state transitions," as required by Claim 1. The Office Action alleges that *Kirti* discloses "state transitions" in *Kirti*, col. 8. *Kirti* makes no such disclosure. *Kirti* at col. 8 discusses generating notifications in response to acquiring data whose values meet certain threshold criteria. Applicants can find no

element of col. 8 that corresponds to a state transition. Nor does the Office Action allege which feature of col. 8 corresponds to "state transitions."

If the Office wishes to persist in alleging that *Kirti* teaches or suggests "first data that defines one or more . . . state transitions," Applicants respectfully request that the Office identify which element of col. 8 the Office believes corresponds to said "first data" and said "state transitions."

(3) Kirti *does not disclose a "composite state transition"*

Kirti does not teach or suggest "first data [that] defines at least one **composite state transition**," as recited in Claim 1. Again, the Office Action alleges that *Kirti* discloses a "composite state transition" in *Kirti*, col. 8, but *Kirti* has no such disclosure. *Kirti* at col. 8 discusses generating notifications in response to acquiring data whose values meet certain threshold criteria. There is no element of col. 8 that suggests "a state transition" as required by Claim 1, much less a composite state transition, nor does the Office Action allege which feature of col. 8 corresponds to a "composite state transition."

Furthermore, Claim 1 clarifies that a composite state transition comprises "multiple state transitions." Even if *Kirti* disclosed a state transition, there is no feature of *Kirti* that comprises "**multiple state transitions**," and therefore there is no element of *Kirti* that teaches or suggests a "composite state transition" within the meaning of Claim 1.

If the Office wishes to persist in alleging that *Kirti* teaches or suggests "first data [that] defines at least one composite state transition," Applicants respectfully request that the Office identify which element of col. 8 the Office believes corresponds to said "first data" and said "composite state transitions."

For at least the foregoing reasons, *Kirti* fails to teach or suggest at least one element of independent Claim 1. Therefore, *Kirti* does not anticipate Claim 1 under 35 U.S.C. § 102. Reconsideration is respectfully requested.

INDEPENDENT CLAIMS 20, 27, AND 29

Independent Claims 20, 27, and 29 also recite certain features quoted above for Claim 1—namely "states," "state transitions," and "composite state transitions"— although Claims 20, 27, and 29 are expressed in another format. For at least the reason that, as mentioned above, *Kirti* does not disclose these certain features, Claims 20, 27, and 29 are likewise allowable over the *Kirti*.

Additionally, Claims 20, 27, and 29 recite additional features that independently render Claims 20, 27, and 29 patentable over *Kirti*. For example, Claim 20 recites, in part:

> one or more network components, each network component
>> configured to spontaneously generate notifications when
>> specified states and state transitions occur involving the
>> network component

Kirti fails to teach or suggest "a network component configured to **spontaneously generate notifications** when specified states and state transitions occur **involving the network component**." Rather, in *Kirti*, notifications about a "network device 102" are generated by a network component **other** than the "network device 102" for which the "acquired data" is collected. *See, e.g.*, col. 8, lines 22–48.

The Office Action alleges that *Kirti* discloses such a feature in *Kirti*, col. 6. *Kirti* makes no such disclosure. Nor does the Office Action allege what feature of this column corresponds to a "network component configured to . . . generate notifications" about **its own** states and state transitions. Rather, *Kirti*, col. 6 discusses monitoring systems that generate notifications about **other** network components.

However, to expedite prosecution in light of the fundamental differences already identified, separate arguments for each independently patentable feature of Claims 20, 27, and 29 are not provided at this time. Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

DEPENDENT CLAIMS 2–19, 21–26, 28, AND 30–43

Claims 2–19, 21–26, 28, and 30–43 depend from Claims 1, 20, 27, or 29, and include each of the above-quoted features by dependency. Thus, *Kirti* also fails to teach or suggest at least one feature found in Claims 2–19, 21–26, 28, and 30–43. Therefore, *Kirti* does not anticipate Claims 2–19, 21–26, 28, and 30–43. Reconsideration of the rejection is respectfully requested.

In addition, each of Claims 2–19, 21–26, 28, and 30–43 recites at least one feature that independently renders it patentable. For example, Claim 24 recites a "**state table** . . . in one of the one or more network components" that generate notifications regarding their own states and state transitions. The Office Action alleges that *Kirti*, col. 4, teaches such a state table. It does not. Nor does the Office Action allege what aspect of *Kirti*, col. 4 corresponds to "a state table." Even if *Kirti* did disclose a state table, this state table would not be "**in one of *the* one or more network components**" that generate notifications regarding their own states and state transitions.

To expedite prosecution in light of the fundamental differences already identified, further arguments for each independently patentable feature of Claims 2–19, 21–26, 28, and 30–43 are not provided at this time. Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

B.   *Anticipation under 35 U.S.C. § 102(e): Moran et al.*

Claims 1–47 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,801,940 to Moran et al. (hereinafter "*Moran*"). Applicants traverse the rejection. Reconsideration is respectfully requested.

INDEPENDENT CLAIM 1

Claim 1, as set forth in the listing of claims, clarifies that the method features:

accessing first data that defines one or more states and state

transitions for a particular component or interaction

between a particular two or more components,

> wherein the first data defines **at least one composite state transition**, each of said composite state transition **comprising multiple state transitions**; and
>
> in response to the particular component or interaction between the particular two or more components entering a particular state or state transition, generating a notification corresponding to the particular state or state transition, wherein the particular state or state transition is one of the one or more states and state transitions.

For example, a computer implementing the steps of Claim 1 may read data, such as a state table, that defines states, for a network component, such as an active state, an inactive state, and a busy state, and state transitions for the network component, such as a transition from an active state to an inactive state and a transition from an active state to a busy state. These state transitions may include a **composite state transition** that includes multiple state transitions. For example, the data may define a composite state transition that includes **both** a transition from an inactive state to an active state **and** a transition from an active state to a busy state. In response to the network component entering this composite state transition, the computer implementing the steps of Claim 1 may generate a notification, such as an event, corresponding to the composite state transition.

By contrast, *Moran* teaches monitoring and collecting performance data for applications, including performance data for "transactions." *Moran* at col. 2, lines 8–30. *Moran* generates metrics based on process flows identified by an analysis of information gathered in network traffic. *Moran* at col. 2, lines 16–21.

Moran fails to teach or suggest a number of features of Claim 1.

(1) Moran *does not disclose "states"*

Moran does not teach or suggest "first data that defines one or more states," as required by Claim 1. The Office Action alleges that *Moran* discloses "states" in *Moran*, col. 4. *Moran*

makes no such disclosure. *Moran* at col. 4 gives a high level overview network architecture and the hardware environment in which *Moran*'s invention may be practiced. Applicants can find no element of col. 4 that suggests "first data that defines one or more states" as required by Claim 1. Nor does the Office Action allege which feature of col. 4 corresponds to "states."

If the Office wishes to persist in alleging that *Moran* teaches or suggests "first data that defines one or more states," Applicants respectfully request that the Office identify which element of col. 4 the Office believes corresponds to said "first data" and said "states."

(2) Moran *does not disclose "state transitions"*

Moran does not disclose "first data that defines one or more . . . state transitions," as required by Claim 1. The Office Action alleges that *Moran* discloses "state transitions" in *Moran*, col. 4. *Moran* makes no such disclosure. *Moran* at col. 4 gives a high level overview network architecture and the hardware environment in which *Moran*'s invention may be practiced. Applicants can find no element of col. 4 that corresponds to a state transition. Nor does the Office Action allege which feature of col. 4 corresponds to "state transitions."

If the Office wishes to persist in alleging that *Moran* teaches or suggests "first data that defines one or more . . . state transitions," Applicants respectfully request that the Office identify which element of col. 4 the Office believes corresponds to said "first data" and said "state transitions."

(3) Moran *does not disclose a "composite state transition"*

Moran does not teach or suggest "first data [that] defines at least one **composite state transition**," as required by Claim 1. The Office Action alleges that *Moran* discloses a "composite state transition" in *Moran*, col. 6. *Moran* makes no such disclosure. *Moran* at col. 6 discusses administrative domains and an Application Monitoring system. Applicants can find no element of col. 6 that suggests "a state transition" as required by Claim 1, much less a composite state transition. Nor does the Office Action allege which feature of col. 6 corresponds to a "composite state transition."

Furthermore, Claim 1 clarifies that a composite state transition comprises "multiple state transitions." Even if *Moran* disclosed a state transition, there is no feature of Moran that comprises "**multiple state transitions**," and therefore these is no element of *Moran* that teaches or suggests a "composite state transition" within the meaning of Claim 1.

If the Office wishes to persist in alleging that *Moran* teaches or suggests "first data that defines one or more . . . state transitions," Applicants respectfully request that the Office identify which element of col. 6 the Office believes corresponds to said "first data" and said "state transitions."

For at least the foregoing reasons, *Moran* fails to teach or suggest at least one element of independent Claim 1. Therefore, *Moran* does not anticipate Claim 1 under 35 U.S.C. § 102. Reconsideration is respectfully requested.

INDEPENDENT CLAIMS 20, 27, AND 29

Independent Claims 20, 27, and 29 also recite certain features quoted above for Claim 1—namely "states," "state transitions," and "composite state transitions"— although Claims 20, 27, and 29 are expressed in another format. For at least the reason that, as mentioned above, *Moran* does not disclose these certain features, Claims 20, 27, and 29 are likewise allowable over the *Moran*. Reconsideration is respectfully requested.

Additionally, Claims 20, 27, and 29 recite additional features that independently render Claims 20, 27, and 29 patentable over *Moran*. For example, Claim 20 recites, in part:

> one or more network components, each network component
>> configured to spontaneously generate notifications when
>> specified states and state transitions occur involving the
>> network component

Moran fails to teach or suggest "a network component configured to **spontaneously generate notifications** when specified states and state transitions occur **involving the network component**." Rather, in *Moran*, metrics about "network traffic" are generated by an Application Motiring system.

The Office Action alleges that *Moran* discloses such a feature in *Moran*, col. 6. *Moran* makes no such disclosure. *Moran* at col. 6 discusses an application monitoring system that may generate alarms, but not about states or state transitions involving itself. Nor does the Office Action allege what feature of this column corresponds to a "network component configured to . . . generate notifications" about **its own** states and state transitions.

However, to expedite prosecution in light of the fundamental differences already identified, separate arguments for each independently patentable feature of Claims 20, 27, and 29 are not provided at this time. Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

DEPENDENT CLAIMS 2–19, 21–26, 28, AND 30–43

Claims 2–19, 21–26, 28, and 30–43 depend from Claims 1, 20, 27, or 29, and include each of the above-quoted features by dependency. Thus, *Moran* also fails to teach or suggest at least one feature found in Claims 2–19, 21–26, 28, and 30–43. Therefore, *Moran* does not anticipate Claims 2–19, 21–26, 28, and 30–43. Reconsideration of the rejection is respectfully requested.

In addition, each of Claims 2–19, 21–26, 28, and 30–43 recites at least one feature that independently renders it patentable. For example, Claim 24 recites a "**state table** . . . in one of the one or more network components" that generate notifications regarding their own states and state transitions. The Office Action alleges that *Moran*, col. 2, teaches such a state table. It does not. Nor does the Office Action allege what aspect of *Moran*, col. 2 corresponds to "a state table." Even if *Moran* did disclose a state table, this state table would not be "**in one of *the* one or more network components**" that generate notifications regarding their own states and state transitions.

To expedite prosecution in light of the fundamental differences already identified, further arguments for each independently patentable feature of Claims 2–19, 21–26, 28, and 30–43 are not provided at this time. Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

III.   ADDED CLAIMS / AMENDMENTS

The added claims and amendments to the claims do not add any new matter to this application. The amendments to Claims 1, 20, 27, and 29 are supported by at least ¶ [0031] of the Specification. The amendments to Claims 8 and 36 are supported by at least ¶ [0055] of the Specification. The amendments to Claims 15, 16, 43 and 44 are supported by at least ¶ [0025] of the Specification. The amendments to Claims 25 are supported by at least Applicants' original claims. The amendments to Claims 5 and 33 address informalities. The amendments to the claims were made to improve the readability and clarity of the claims and not necessarily for any reason related to patentability.

Claims 48–59 have been added. Claims 48, 49, and 54 are supported by at least ¶¶ [0025], [0056], and [0057] of the Specification. Claims 48–59 have been added. Claims 50, 51, 55, and 56 are supported by at least ¶¶ [0054] and [0060] of the Specification. Claims 52 and 57 are supported by at least ¶¶ [0053] and [0054] of the Specification. Claims 53 and 58 are supported by at least ¶¶ [0041] of the Specification. Claims 48–59 therefore do not introduce any new subject matter. Furthermore, Claims 48–59 are patentable over the cited references for at least the same reasons as Claim 1, 20, 27, or 29, upon which they depend.

CLAIM 48

Each of the added claims recite one or more additional elements which independently render them patentable over the cited references. For example, Claim 48 recites, in part:

accessing second data that indicates, for the particular component
or interaction between the particular two or more
components, a set of one or more undesirable states or state
transitions;
wherein each of said one or more undesirable states or state
transitions is a state or state transition of the one or
more states and state transitions that is associated
with undesirable behavior; and

accessing third data that indicates, for the particular component or

interaction between the particular two or more components,

a set of one or more illegal states or state transitions;

wherein each of said one or more illegal states or state

transitions is a state or state transition of the one or

more states and state transitions that is associated

with illegal behavior;

wherein the set of one or more illegal states is different

from the set of one or more undesirable states;

Neither *Kirti* nor *Moran* teach a number of elements of Claim 48. For example, neither *Kirti* nor *Moran* teach that the specified states and state transitions include "a set of one or more undesirable states" **and** "a set of one or more illegal states," where "the set of one or more illegal states is different from the set of one or more undesirable states."

To expedite prosecution in light of the fundamental differences already identified, further arguments for each independently patentable feature of the added claims is not provided at this time. Applicants reserve the right to further point out the differences between the cited art and the novel features recited in the dependent claims.

IV.   CONCLUSION

It is respectfully submitted that all of the pending claims are in condition for allowance and the issuance of a notice of allowance is respectfully requested. If there are any additional charges, please charge them to Deposit Account No. 50-1302.

The Examiner is invited to contact the undersigned by telephone if the Examiner believes that such contact would be helpful in furthering the prosecution of this application.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Date: February 22, 2008

/KarlTRees#58983/
Karl T. Rees, Reg. No. 58,983

2055 Gateway Place, Suite 550
San Jose, CA 95110
(408) 414-1233
Facsimile: (408) 414-1076